



NOTICES OF FINAL EXEMPT RULEMAKING

This section of the *Arizona Administrative Register* contains Notices of Final Exempt Rulemaking.

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the

interpretation of the final exempt rule should be addressed to the agency proposing them. Refer to Item #5 to contact the person charged with the rulemaking.

NOTICE OF FINAL EXEMPT RULEMAKING

TITLE 21. CHILD SAFETY

CHAPTER 5. DEPARTMENT OF CHILD SAFETY PERMANENCY AND SUPPORT SERVICES

[R15-172]

PREAMBLE

1. **Article, Part, or Section Affected (as applicable)**

Article 1	New Article
R21-5-101	New Section
R21-5-102	New Section
R21-5-103	New Section
R21-5-104	New Section
R21-5-105	New Section
R21-5-106	New Section
R21-5-107	New Section
2. **Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific), and the statute or session law authorizing the exemption:**

Authorizing statute: A.R.S. § 8-453(A)(5)

Implementing statute: A.R.S. §§ 8-548 through 8-548.06, and A.R.S. § 8-453(A)(9)(a)

Statute or session law authorizing the exemption: Laws 2014, Second Special Session, Ch. 1, § 158
3. **The effective date of the rule and the agency's reason it selected the effective date:**

January 2, 2016. The Department has selected this date to be in compliance with A.R.S. § 41-1032.
4. **A list of all notices published in the Register as specified in R1-1-409(A) that pertain to the record of the exempt rulemaking:**

Notice of Public Information: 21 A.A.R. 1051, July 10, 2015

Notice of Oral Proceeding: 21 A.A.R. 1055, July 10, 2015
5. **The agency's contact person who can answer questions about the rulemaking:**

Name: Carrie Senseman, Lead Rules Analyst

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6. **An agency's justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:**

A.R.S. §§ 8-548 through 8-548.06, and A.R.S. § 8-453(A)(9)(a) establish the Interstate Compact on the Placement of Children (ICPC), into law, and authorizes the Department to cooperate with other states in the interstate place-



ment of children in a suitable environment and with persons or institutions having appropriate qualifications to provide care for children in the custody of the Department.

Laws 2014, Second Special Session, Ch. 1, § 158 exempts the Department from the rulemaking requirements of in A.R.S. Title 14, Chapter 6 until November 28, 2015, in order to “Adopt rules to implement the purposes of the Department and the duties and powers of the director.” The Department received an exception from the Governor’s rulemaking moratorium, established by Executive Order 2015-01, for this rulemaking and has added Chapter 5, Article 1. The rules conform to the current rulemaking format and style requirements of the Office of the Secretary of State.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None

8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of the economic, small business, and consumer impact, if applicable:

The Department was exempted from Title 41, Chapter 6 and therefore no Economic Impact Statement is required.

10. A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and the final rulemaking package (if applicable):

Not applicable

11. An agency’s summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:

The Department’s exemption from rulemaking required the Department to provide public notice and an opportunity for public comment in writing and at two or more public comment hearings. The exemption did not require the Department to post its responses to the public comments. However, the Department provides the following information on the public comment hearings and public comment.

Public hearings for Article 1, Interstate Compact on the Placement of Children rule package were held on July 20, 2015 in Tucson and July 21, 2015 in Phoenix. Attendees were given the opportunity to provide oral or written comments. No comments were received at these meetings for this rule package. A copy of Article 1, Interstate Compact on the Placement of Children, draft rules were posted on the Department’s website from June 17, 2015 to July 23, 2015, along with an on-line survey to obtain public comments. No comments were received for this rule package.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

Not applicable

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

Federal laws 42 U.S.C. 622, U.S.C. 675, U.S.C. 4671 and U.S.C. 5113 apply to this rulemaking. The rules are not more stringent than federal law.

c. Whether a person submitted an analysis to the agency that compares the rule’s impact of the competitiveness of business in this state to the impact on business in other states:

Not applicable

13. A list of any incorporated by reference material and its location in the rule:

None

14. Whether the rule was previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:

The rules were not previously made, amended, repealed, or renumbered as an emergency rule.

15. The full text of the rules follows:

**TITLE 21. CHILD SAFETY****CHAPTER 5. DEPARTMENT OF CHILD SAFETY**
PERMANENCY AND SUPPORT SERVICES**ARTICLE 1. INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN****Section**

<u>R21-5-101.</u>	<u>Definitions</u>
<u>R21-5-102.</u>	<u>Authority</u>
<u>R21-5-103.</u>	<u>Conditions of Placement</u>
<u>R21-5-104.</u>	<u>Financial Responsibility</u>
<u>R21-5-105.</u>	<u>Applicability</u>
<u>R21-5-106.</u>	<u>Placement Approval</u>
<u>R21-5-107.</u>	<u>Operations</u>

ARTICLE 1. INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN**R21-5-101. Definitions**

The definitions contained in A.R.S. § 8-548 and the following definitions apply in this Article:

1. "Child" means any person less than the age of 18 years.
2. "Compact" or "ICPC" means the Interstate Compact on the Placement of Children.
3. "Compact Administrator" means the same as A.R.S. § 8-548.
4. "Compact State" means a state that is a member of the Interstate Compact on the Placement of Children.
5. "Department" or "DCS" means the Arizona Department of Child Safety.
6. "Interstate placement" means any movement of a child from one state to another state for the purpose of establishing a suitable living environment and providing necessary care.
7. "Intra-state placement" means the placement of a child within a state by an agency of that state.
8. "Placement" means the same as in A.R.S. § 8-548.
9. "Receiving state" means the same as in A.R.S. § 8-548.
10. "Sending agency" means the same as in A.R.S. § 8-548.
11. "Sending state" means the state where the sending agency is located, or the state in which the court holds exclusive jurisdiction over a child, which causes, permits, or enables the child to be sent to another state.

R21-5-102. Authority

The ICPC is governed by A.R.S. §§ 8-548 through 8-548.06 and the ICPC regulations. ICPC regulations are posted on the Association of Administrators of the Interstate Compact on the Placement of Children website. These regulations supplement those authorities and must be read in conjunction with them.

R21-5-103. Conditions of Placement

No person, court, or public or private agency in a Compact State shall place a child in another Compact State until the Compact Administrator in the receiving state has notified the Compact Administrator in the sending state, on a prescribed form, that such placement does not appear to be contrary to the interests of the child and does not violate any applicable laws of the receiving state.

R21-5-104. Financial Responsibility

The sending person, court, or public or private agency shall be held financially responsible for:

1. Sending the child to the receiving state;
2. Returning the child to the sending state; and
3. Treatment of the child during the period of placement.

R21-5-105. Applicability

A. Except as listed in sub-section B, the ICPC applies to the placement of:

1. Children in another Compact State by an agency, court or person, which has care or custody of the children.
2. Foreign-born children who are brought under the jurisdiction of a Compact State by an international child placing agency.

B. In addition to the children listed in statute that are not subject to ICPC, the ICPC does not apply:

1. When a child is placed in an institution caring for the mentally ill, mentally impaired, epileptic, or in any institution primarily educational in character or in any hospital or other medical facility.
2. To the placement of children into and out of the United States when the other jurisdiction involved is a foreign country.
3. When a sending court or agency seeks an independent (not ICPC related) courtesy check for placement with a parent from whom the child was not removed, the responsibility for credentials and quality of the courtesy check rests directly with the sending court or agency and the person or party in the receiving state who agrees to conduct the



courtesy check without invoking the protection of the ICPC home study process. This does not prohibit a sending state from requesting an ICPC.

4. The Compact does not apply in court cases of paternity, divorce, custody, and probate pursuant to which or in situations where children are being placed with parents or relatives or non-relatives.

R21-5-106. Placement Approval

Sending and receiving states must obtain approval from the Compact Administrator in both the sending and receiving states prior to the placement of a child in another Compact State.

R21-5-107. Operations

In providing services provided under this Article, the sending and the receiving state shall:

1. Maintain all information required by state and federal law.
2. Comply with all federal and their respective state laws and regulations regarding the disclosure and use of confidential health and personal information.
3. Comply with all federal and their respective state non-discrimination laws and regulations.
4. Ensure that interpreters, including assistance for the visually or hearing impaired, are available to those receiving services at no cost.